

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 1:23-00035

MYRON DWAYNE BROWN

**MEMORANDUM OPINION AND ORDER**

Pending before the court is the motion of the defendant for a continuance of trial in this matter. (ECF No. 30.) In support of the motion, counsel for the defendant explains that he is unavailable for trial because he has cataract surgery scheduled on June 6, 2023.

Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh the interest of the defendant and the public in a speedy trial, see 18 U.S.C. § 3161(h)(7)(A), and **GRANTS** defendant's motion to continue. In deciding to grant the defendant's motion, the court considered the factors outlined in 18 U.S.C. § 3161(h)(7)(B) and finds that denying the motion "would deny . . . the defendant continuity of counsel . . . ." Id. § 3161(h)(7)(B)(iv).

Accordingly, the court hereby **ORDERS** as follows:


1. Jury Instructions and Proposed Voir Dire are due by  
**July 4, 2023;**

2. Trial of this action is continued to **July 11, 2023, at 9:30 a.m.** in Bluefield; and
3. Pursuant to 18 U.S.C. § 3161(h) (7) (A), the time from the filing of the motion until the trial is excludable for purposes of the Speedy Trial Act.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to all counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

**IT IS SO ORDERED** this 24th day of May, 2023.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge